

Union Calendar No. 243

105TH CONGRESS
2D SESSION

H. R. 2369

[Report No. 105–425]

To amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1997

Mr. TAUZIN (for himself, Mr. MARKEY, Mr. OXLEY, Mr. GILLMOR, Ms. ESHOO, and Ms. MCCARTHY of Missouri) introduced the following bill; which was referred to the Committee on Commerce

MARCH 3, 1998

Additional sponsors: Mr. MANTON, Mr. WYNN, Mr. PETERSON of Minnesota, Mr. DEAL of Georgia, Mr. CAMPBELL, and Mr. BURTON of Indiana

MARCH 3, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 31, 1997]

A BILL

To amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Wireless Privacy En-*
 5 *hancement Act of 1998”.*

6 **SEC. 2. COMMERCE IN ELECTRONIC EAVESDROPPING**
 7 **DEVICES.**

8 *(a) PROHIBITION ON MODIFICATION.—Section 302(b)*
 9 *of the Communications Act of 1934 (47 U.S.C. 302a(b)) is*
 10 *amended by inserting before the period at the end thereof*
 11 *the following: “, or modify any such device, equipment, or*
 12 *system in any manner that causes such device, equipment,*
 13 *or system to fail to comply with such regulations”.*

14 *(b) PROHIBITION ON COMMERCE IN SCANNING RE-*
 15 *CEIVERS.—Section 302(d) of such Act (47 U.S.C. 302a(d))*
 16 *is amended to read as follows:*

17 *“(d) EQUIPMENT AUTHORIZATION REGULATIONS.—*

18 *“(1) PRIVACY PROTECTIONS REQUIRED.—The*
 19 *Commission shall prescribe regulations, and review*
 20 *and revise such regulations as necessary in response*
 21 *to subsequent changes in technology or behavior, deny-*
 22 *ing equipment authorization (under part 15 of title*
 23 *47, Code of Federal Regulations, or any other part of*
 24 *that title) for any scanning receiver that is capable*
 25 *of—*

1 “(A) receiving transmissions in the fre-
2 quencies that are allocated to the domestic cel-
3 lular radio telecommunications service or the
4 personal communications service;

5 “(B) readily being altered to receive trans-
6 missions in such frequencies;

7 “(C) being equipped with decoders that—

8 “(i) convert digital domestic cellular
9 radio telecommunications service, personal
10 communications service, or protected spe-
11 cialized mobile radio service transmissions
12 to analog voice audio; or

13 “(ii) convert protected paging service
14 transmissions to alphanumeric text; or

15 “(D) being equipped with devices that other-
16 wise decode encrypted radio transmissions for
17 the purposes of unauthorized interception.

18 “(2) *PRIVACY PROTECTIONS FOR SHARED FRE-*
19 *QUENCIES.*—The Commission shall, with respect to
20 scanning receivers capable of receiving transmissions
21 in frequencies that are used by commercial mobile
22 services and that are shared by public safety users,
23 examine methods, and may prescribe such regulations
24 as may be necessary, to enhance the privacy of users
25 of such frequencies.

1 “(3) *TAMPERING PREVENTION.*—In prescribing
2 regulations pursuant to paragraph (1), the Commis-
3 sion shall consider defining ‘capable of readily being
4 altered’ to require scanning receivers to be manufac-
5 tured in a manner that effectively precludes alter-
6 ation of equipment features and functions as nec-
7 essary to prevent commerce in devices that may be
8 used unlawfully to intercept or divulge radio commu-
9 nication.

10 “(4) *WARNING LABELS.*—In prescribing regula-
11 tions under paragraph (1), the Commission shall con-
12 sider requiring labels on scanning receivers warning
13 of the prohibitions in Federal law on intentionally
14 intercepting or divulging radio communications.

15 “(5) *DEFINITIONS.*—As used in this subsection,
16 the term ‘protected’ means secured by an electronic
17 method that is not published or disclosed except to au-
18 thorized users, as further defined by Commission reg-
19 ulation.”.

20 “(c) *IMPLEMENTING REGULATIONS.*—Within 90 days
21 after the date of enactment of this Act, the Federal Commu-
22 nications Commission shall prescribe amendments to its
23 regulations for the purposes of implementing the amend-
24 ments made by this section.

1 **SEC. 3. UNAUTHORIZED INTERCEPTION OR PUBLICATION**
2 **OF COMMUNICATIONS.**

3 *Section 705 of the Communications Act of 1934 (47*
4 *U.S.C. 605) is amended—*

5 *(1) in the heading of such section, by inserting*
6 ***“INTERCEPTION OR”*** *after “UNAUTHORIZED”;*

7 *(2) in the first sentence of subsection (a), by*
8 *striking “Except as authorized by chapter 119, title*
9 *18, United States Code, no person” and inserting “No*
10 *person”;*

11 *(3) in the second sentence of subsection (a)—*

12 *(A) by inserting “intentionally” before*
13 *“intercept”; and*

14 *(B) by striking “and divulge” and inserting*
15 *“or divulge”;*

16 *(4) by striking the last sentence of subsection (a)*
17 *and inserting the following: “Nothing in this sub-*
18 *section prohibits an interception or disclosure of a*
19 *communication as authorized by chapter 119 of title*
20 *18, United States Code.”;*

21 *(5) in subsection (e)(1)—*

22 *(A) by striking “fined not more than \$2,000*
23 *or”; and*

24 *(B) by inserting “or fined under title 18,*
25 *United States Code,” after “6 months,”; and*

1 (6) in subsection (e)(3), by striking “any viola-
2 tion” and inserting “any receipt, interception, divul-
3 gence, publication, or utilization of any communica-
4 tion in violation”;

5 (7) in subsection (e)(4), by striking “any other
6 activity prohibited by subsection (a)” and inserting
7 “any receipt, interception, divulgence, publication, or
8 utilization of any communication in violation of sub-
9 section (a)”; and

10 (8) by adding at the end of subsection (e) the fol-
11 lowing new paragraph:

12 “(7) Notwithstanding any other investigative or en-
13 forcement activities of any other Federal agency, the Com-
14 mission shall investigate alleged violations of this section
15 and may proceed to initiate action under section 503 of
16 this Act to impose forfeiture penalties with respect to such
17 violation upon conclusion of the Commission’s
18 investigation.”.

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